

REMARKS

This Amendment is being filed in response to the Final Office Action mailed July 17, 2008, which has been reviewed and carefully considered. Entry of the present amendment and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-10 and 13-20 remain in this application, where claim 11 has been canceled by this amendment without prejudice.

In the Final Office Action, the Examiner objected to claims 1-4 for certain informalities. In response, claims 1-4 have been amended in accordance with the Examiner's suggestion. It is respectfully submitted that the objection to claims 1-4 has been overcome and withdrawal of this objection is respectfully requested.

In the Final Office Action, the Examiner indicated that claims 5-7 are allowed. Applicants gratefully acknowledge the indication that claims 5-7 are allowed.

On page 2 of the Final Office Action, it is indicated that amended claim 1 does not include all the features of allowable claim 12, indicated as allowable in the Office Action dated October

5, 2007. Without agreeing with the position forwarded in the Office Action and in the interest of advancing prosecution, claim 1 has been amended to include all the features of allowable claim 12.

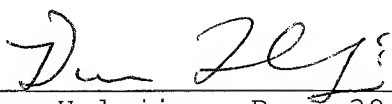
Accordingly, no new issues requiring a new search have been introduced and entry of the present Amendment is respectfully requested. Further, it is respectfully submitted that U.S. Patent No. 7,190,683 (Giallorenzi) does not disclose or suggest "outputting actual QoS data to the MAC layer including outputting an actual rate actually determined for a current transmission and an actual bit error rate (BER) actually determined for the current transmission," as recited in independent claim 1. (Illustrative emphasis provided) Rather, Giallorenzi merely discloses on column 4, lines 10-17, PHY interfaces with the Media Access Control (MAC) layer, and carrying MAC packets and enabling MAC functions based on Quality of Service (QoS) requirements and Service Level Agreements (SLAs).

Accordingly, it is respectfully submitted that independent claim 1 is allowable, and allowance thereof is respectfully requested. In addition, it is respectfully submitted that claims 2-4, 8-10 and 13-20 should also be allowed at least based on their dependence from independent claim 1.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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